

*Section 560.93-101 Interrelationship Between the General Limitation and the 150 Percent Aggregate Limit on Loans to all Borrowers To Develop Domestic Residential Housing Units*

1. The Office has already received numerous questions regarding the allocation of loans between the different lending limit "baskets," *i.e.*, the 15 percent General Limitation basket and the 30 percent Residential Development basket. In general, the inquiries concern the manner in which an association may "move" a loan from the General Limitation basket to the Residential Development basket. The following example is intended to provide guidance:

*Example:* Association A's General Limitation under section 5(u)(1) is \$15 million. In January, Association A makes a \$10 million loan to Borrower to develop domestic residential housing units. At the time the loan was made, Association A had not received approval under a Director order to avail itself of the residential development exception to lending limits. Therefore, the \$10 million loan is made under Association A's General Limitation.

2. In June, Association A receives authorization to lend under the Residential Development exception. In July, Association A lends \$3 million to Borrower to develop domestic residential housing units. In August, Borrower seeks an additional \$12 million commercial loan from Association A. Association A cannot make the loan to Borrower, however, because it already has an outstanding \$10 million loan to Borrower that counts against Association A's General Limitation of \$15 million. Thus, Association A may lend only up to an additional \$5 million to Borrower under the General Limitation.

3. However, Association A may be able to reallocate the \$10 million loan it made to Borrower in January to its Residential Development basket provided that: (1) Association A has obtained authority under a Director's order to avail itself of the additional lending authority for residential development and maintains compliance with all prerequisites to such lending authority; (2) the original \$10 million loan made in January constitutes a loan to develop domestic residential housing units as defined; and (3) the housing unit(s) constructed with the funds from the January loan remain in a stage of "development" at the time Association A reallocates the loan to the domestic residential housing basket. The project must be in a stage of acquisition, development, construction, rehabilitation, or conversion in order for the loan to be reallocated.

4. If Association A is able to reallocate the \$10 million loan made to Borrower in January to its Residential Development basket, it may make the \$12 million commercial loan requested by Borrower in August. Once the January loan is reallocated to the Residen-

tial Development basket, however, the \$10 million loan counts towards Association's 150 percent aggregate limitation on loans to all borrowers under the residential development basket (section 5(u)(2)(A)(ii)(IV)).

5. If Association A reallocates the January loan to its domestic residential housing basket and makes an additional \$12 million commercial loan to Borrower, Association A's totals under the respective limitations would be: \$12 million under the General Limitation; and \$13 million under the Residential Development limitation. The full \$13 million residential development loan counts toward Association A's aggregate 150 percent limitation.

[61 FR 50976, Sept. 30, 1996, as amended at 61 FR 66579, Dec. 18, 1996; 62 FR 66262, Dec. 18, 1997]

**§ 560.100 Real estate lending standards; purpose and scope.**

This section, and § 560.101 of this subpart, issued pursuant to section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991, 12 U.S.C. 1828(o), prescribe standards for real estate lending to be used by savings associations and all their includable subsidiaries, as defined in 12 CFR 567.1, over which the savings associations exercise control, in adopting internal real estate lending policies.

[61 FR 50971, Sept. 30, 1996, as amended at 62 FR 66262, Dec. 18, 1997]

**§ 560.101 Real estate lending standards.**

(a) Each savings association shall adopt and maintain written policies that establish appropriate limits and standards for extensions of credit that are secured by liens on or interests in real estate, or that are made for the purpose of financing permanent improvements to real estate.

(b)(1) Real estate lending policies adopted pursuant to this section must:

(i) Be consistent with safe and sound banking practices;

(ii) Be appropriate to the size of the institution and the nature and scope of its operations; and

(iii) Be reviewed and approved by the savings association's board of directors at least annually.

(2) The lending policies must establish:

(i) Loan portfolio diversification standards;